IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8798 of 1992

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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MOTIBHAI R KATANA

Versus

MANAGING DIRECTOR

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Appearance:

MR CB DASTOOR for Petitioner

MR DEEPAK V PATEL for Respondent No. 1

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 06/10/2000

ORAL JUDGEMENT

The petitioner claims that by order dated 11th July, 1985, he was appointed as Welfare Assistant by promotion in the respondent-Dairy. The petitioner was the only Welfare Assistant. It is alleged that in view of the trade union activities being carried on by the

petitioner, he is sought to be transferred to another Department ostensibly for administrative reasons, however, the same amounts to change in cadre/demotion. Therefore, the petition.

The order of transfer has been produced by the respondent-Dairy alongwith its counter affidavit. Under the said order dated 7th December, 1992, the petitioner is ordered to be transferred from Administrative Division to Salary Division. By order dated 22nd January, 1993, this Court [Coram : M.S Parikh, J.] ordered rule to issue on the petition and directed that, `..it would be open to the respondents to assign additional work to the petitioner within the duty hours commensurate with the post which he holds. With this qualification, the aforesaid interim relief is continued till the final hearing of the petition.' Hence, it appears that the impugned order of transfer dated 7th December, 1992 has not been operated as against the petitioner till date. In view of passage of time, it shall not be expedient to operate the said order, now after nearly eight years.

The petition is allowed. The impugned order of transfer dated 7th December, 1992 so far as it relates to the petitioner is quashed and set-aside. It is, however, clarified that it shall be open to the respondents to transfer the petitioner from one section/division to another, if the administrative exigency so requires. Rule is made absolute to the aforesaid extent. The parties shall bear their own costs.

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Prakash*